

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ROBERT SHINE,)
)
 Plaintiff,)
 vs.) NO. 1:11-cv-00723-WTL-MJD
)
 ZALE CORPORATION,)
)
 Defendant.)

REPORT AND RECOMMENDATION
HON. MARK J. DINSMORE, MAGISTRATE JUDGE

This matter came before the Court upon the motion of Defendant Zale Delaware, Inc. to compel certain discovery responses from Plaintiff Robert Shine. [Dkt. 31.] That motion was granted by Order dated January 4, 2012. [Dkt. 34.] The Court's January 4, 2012 Order further provided as follows:

[T]he Court further orders, pursuant to Rule 37(a)(5) of the Federal Rules of Civil Procedure, that Plaintiff's counsel, Diamond Z. Hirschauer, shall pay Defendant's reasonable expenses incurred in making this motion, including attorneys fees. Defendant shall file a petition for such expenses by no later than January 20, 2012. Plaintiff may respond to such petition by no later than January 30, 2012 and Defendant may submit a reply in support of the petition by no later than February 6, 2012.

[Dkt. 34 at 2.]

Defendant timely filed its petition for fees, [Dkt. 36], and Plaintiff did not respond as directed. Accordingly, Defendant's petition for fees is subject to a summary ruling. S.D. Ind. L.R. 7-1(c)(5).


The Court has reviewed the Defendant's petition for attorneys' fees and costs and finds that the fees set forth therein (no costs other than attorneys' fees were sought) in the total amount of Two Thousand Three Dollars and No Cents (\$2,003.00) are reasonable and were necessarily expended by Defendant in obtaining Plaintiff's dilatory discovery responses.

Accordingly, the Court recommends that Plaintiff's counsel, Diamond Z. Hirschauer, be ordered to pay to counsel for Defendant the amount of Two Thousand Three Dollars and No Cents (\$2,003.00). Such amount shall be paid by no later than fourteen days after the date on which the District Court adopts this Report and Recommendation. It is expressly directed that Ms. Hirschauer pay the amount due out of her own funds and that she not charge any of this amount to her client, Robert Shine.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1), and failure to file timely objections within the fourteen days after service shall constitute a waiver of subsequent review absent a showing of good cause for such

failure.

Dated: 02/09/2012



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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